



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Frank E. Blondino et al.

Application No.: 10/734,150

Filing Date: December 15, 2003

Title: AEROSOL FORMULATIONS AND
AEROSOL DELIVERY OF
BUSPIRONE, BUSPRENORPHINE,
TRAIZOLAM, CYCLOBENZAPRINE
AND ZOLPIDEM

) MAIL STOP AF

) Group Art Unit: 1616

) Examiner: Mina Haghighatian

) Confirmation No.: 2098

**TERMINAL DISCLAIMER TO OBVIATE DOUBLE PATENTING REJECTIONS OVER
PRIOR PATENTS AND TO OBVIATE PROVISIONAL DOUBLE PATENTING
REJECTIONS OVER PENDING "REFERENCE" APPLICATIONS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The owner, PHILIP MORRIS USA INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent(s) granted on the instant application, which would extend beyond the expiration date of the full statutory term defined under 35 U.S.C. §§ 154 and 173, as presently shortened by any terminal disclaimer, of the following prior issued patents identified by Patent Nos.: 7,040,314; 5,743,251; 7,128,067; 7,173,222; 7,167,776; 7,163,014; 7,147,170; 7,117,867; 6,923,179; 6,854,461; 7,077,130; 6,883,516; 6,799,572; 6,766,220; 6,701,922; 6,557,552; 6,516,796; and 6,501,052. The owner hereby agrees that any patent(s) granted on the instant application shall be enforceable only for and during the period that such patent(s) and the prior patents are commonly owned. This agreement runs with any patent(s) granted on the instant application, and shall be binding upon the grantee, its successors or assigns. In making the above disclaimer, the owner does not disclaim the terminal part of any patent(s) granted on the instant application that would extend to the expiration date of the full statutory term, as defined under 35 U.S.C. §§ 154 and 173, of the prior issued patent(s) in the event that the patent(s) granted on the instant application are: expired for failure to pay maintenance fees, held unenforceable, found invalid by a court of competent jurisdiction, statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, subjected to reexamination resulting in the cancellation of all claims by a reexamination certificate, reissued, or terminated in any manner prior to the expiration of their full statutory term.

Furthermore, the owner, PHILIP MORRIS USA INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent(s) granted on the instant application, which would extend beyond the expiration date of the full statutory term of the following pending reference applications:

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APPLICATION	FILED DATE
10/795,522	March 9, 2004
10/958,329	October 6, 2004
10/871,536	June 21, 2004
10/830,463	April 23, 2004
10/829,945	April 23, 2004
11/140,984	June 1, 2005

As defined under §§ 35 U.S.C 154 and 173, the term of any patent(s) granted on said reference applications may be shortened by any terminal disclaimer filed prior to the grant of any patent(s) issued on the pending reference applications. The owner hereby agrees that any patent(s) granted on the instant application shall be enforceable only for and during the period that such patent(s) and any patent(s) granted on the reference applications are commonly owned. This agreement runs with any patent(s) granted on the instant application, and shall be binding upon the grantee, its successors or assigns. In making the above disclaimer, the owner does not disclaim the terminal part of any patent(s) granted on the instant application that would extend to the expiration date of the full statutory term, as defined under 35 U.S.C. §§ 154 and 173, of any patent(s) granted on said reference applications, "as the term of any patent granted on said reference applications may be shortened by any terminal disclaimer filed prior to the grant of any patent(s) on the pending reference applications," in the event that any such patent(s) granted on the pending reference applications are: expired for failure to pay a maintenance fee, held unenforceable, found invalid by a court of competent jurisdiction, statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, subjected to reexamination resulting in the cancellation of all claims by a reexamination certificate, reissued, or terminated in any manner prior to the expiration of their full statutory term as shortened by any terminal disclaimer filed prior to their grant.

I hereby declare that all statements made herein were based on my own knowledge and information believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application or any patent(s) issued thereon.

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

☒ The undersigned is an attorney of record.

September 13, 2007

By:


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